

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOYCE FOWLER,

Plaintiff,

Civil Action No.
04-CV-72759-DT

vs.

HON. BERNARD A. FRIEDMAN

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

_____ /

OPINION AND ORDER ACCEPTING AND ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION;
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT;
and
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

This matter is presently before the Court on cross Motions for Summary Judgment. Magistrate Judge Steven Pepe has submitted a Report and Recommendation, in which he recommends that the Court grant Defendant's Motion for Summary Judgment and deny Plaintiff's Motion for Summary Judgment. Plaintiff has filed objections to the Report and Recommendation. Defendant has responded to Plaintiff's objections.

In January 2004, an Administrative Law Judge ("ALJ") denied Plaintiff's application for Disability Insurance Benefits ("DIB"). In July 2004, the Appeals Council of the Social Security Administration denied Plaintiff's request for a review of the ALJ's decision; consequently, the ALJ's decision became the final determination of the Commissioner of Social Security ("Commissioner"). Thereafter, Plaintiff brought the action at hand pursuant to 42 U.S.C. § 405(g), in order to seek judicial review of the Commissioner's denial of her application for DIB.

(Pl.'s Compl. ¶¶ 2-3.)

The Court has reviewed this matter *de novo*, as required by Federal Rule of Civil Procedure 72(b). The Court will uphold the Commissioner's decision. The "findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive." 42 U.S.C. § 405(g) (2003). A "court must affirm the Commissioner's conclusions absent a determination that the Commissioner has failed to apply the correct legal standards or has made findings of fact unsupported by substantial evidence in the record." Walters v. Comm'r of Soc. Sec., 127 F.3d 525, 528 (6th Cir. 1997).

The Sixth Circuit has stated that "[s]ubstantial evidence is 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" Heston v. Comm'r of Soc. Sec., 245 F.3d 528, 534 (6th Cir. 2001) (quoting Richardson v. Perales, 402 U.S. 389, 401 (1971)). The Sixth Circuit has further explained:

"The substantial-evidence standard allows considerable latitude to administrative decision makers. It presupposes that there is a zone of choice within which the decisionmakers can go either way, without interference by the courts. An administrative decision is not subject to reversal merely because substantial evidence would have supported an opposite decision."

Mullen v. Bowen, 800 F.2d 535, 545 (6th Cir. 1986) (en banc) (quoting Baker v. Heckler, 730 F.2d 1147, 1150 (8th Cir. 1984)). Thus, the "decision of an ALJ is not subject to reversal, even if there is substantial evidence in the record that would have supported an opposite conclusion, so long as substantial evidence supports the conclusion reached by the ALJ." Key v. Callahan, 109 F.3d 270, 273 (6th Cir. 1997).

Here, the Court finds that such substantial evidence exists. Based upon its own review of the record established and documentary evidence presented, the Court reaches the same

conclusions as did Magistrate Judge Pepe. The Court finds that the ALJ applied the correct legal standards and that his findings were supported by substantial evidence. Therefore, the Court will overrule Plaintiff's objections. Accordingly,

IT IS ORDERED that Magistrate Judge Pepe's Report and Recommendation of July 22, 2005, is accepted and adopted.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment is granted.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment is denied.

____s/Bernard A. Friedman_____
BERNARD A. FRIEDMAN
CHIEF UNITED STATES DISTRICT JUDGE

Dated: August 17, 2006
Detroit, Michigan

**I hereby certify that a copy of the foregoing document
was served this date upon counsel of record
electronically and/or via first-class mail.**

____/s/ Patricia Foster Hommel_____
Patricia Foster Hommel
Secretary to Chief Judge Friedman